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In The

Supreme Court of the United States

October Term, 1971

No. 72-363

FLOSSIE V. GRIMES,

Petitioner,

v.

NOTTOWAY COUNTY SCHOOL BOARD, THOMAS W. STAFFORD, Superintendent, ALTHEUS B. COUSINS, Principal,

Respondents.

BRIEF IN OPPOSITION TO THE PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

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QUESTION PRESENTED

The question presented by the Petition for Certiorari is whether the issue resolved by the District Court and unanimously affirmed by the Court of Appeals for the Fourth Circuit is of sufficient magnitude to require further review by this Court.

Petitioner seeks to have heard five questions but, we submit, only one issue was necessary of determination by the Court of Appeals. That Court states the matter thusly:

"We need not decide here the question of plaintiff teacher's right to a hearing. Instead, we can assume *arguendo* that she was so entitled and confine our decision to the narrow issue stipulated by the parties and decided by the district court: Was the hearing afforded plaintiff adequate to satisfy the requirement of procedural due process? We hold that it was."

ARGUMENT

I.

The Hearing Afforded Petitioner Was Adequate

The findings of the District Court should dispose of any doubt as to the adequacy of the hearing. Judge Lewis wrote:

"They convened a special board meeting so that the members could give their undivided attention to her complaint—they heard everything she had to say and were willing to listen to any other persons she wanted them to hear—The school superintendent stated publicly the reasons for not recommending that she be rehired. They allowed her counsel of her own choosing and they gave him every opportunity to question the superintendent and/or any of the board members. They deferred their final vote for some two weeks at his request. In fact, there is not one word of evidence in this case indicating that the plaintiff was denied the right to literally do anything she wanted to do or to say anything she wanted to say in respect to the subject matter under consideration."

The Court of Appeals affirmed with the following finding:

"Admittedly the first meeting of the School Board was called on short notice and at best it was an informal forum for the airing of plaintiff's grievances. There was no statutory procedure prescribed, however, and the evidence was that it was the only procedure the

Board had ever employed in such cases. Moreover, the plaintiff herself had requested this meeting, and she was able to attend in person and with counsel. No objection was raised as to insufficiency of notice, and any such objection must now be held to have been waived.

The reasons for the failure of the principal and superintendent to recommend plaintiff's reappointment apparently were not reduced to writing until the day of the School Board meeting; but the evidence was uncontradicted that she had been given the reasons orally. Conclusive evidence of this is to be found in the statement in her letter requesting the meeting that she found it difficult 'to equate the reasons given not to recommend with the action taken.' At no time does it appear that she or her attorney requested a written specification of the charges against her.

The only two witnesses appearing against the plaintiff at the meeting were the principal and superintendent. These witnesses were not sworn and the proceedings were not reported, but the evidence at the trial fully warranted the district court's findings that the plaintiff had ample opportunity to question them.

The same is true of the court's finding that plaintiff was permitted to develop her own case fully. She did not produce witnesses in her own behalf, but she had opportunity to do so both at the first meeting and at the second meeting which was held two weeks later. She and her counsel were afforded ample opportunity to be heard at each of the two meetings.

We conclude that if plaintiff was entitled to a hearing, the procedures employed in the two meetings of the School Board comported fully with due process principles. This accords with the results reached by other courts faced with similar fact situations."

CONCLUSION

We respectfully submit that the Petitioner has been heard by the School Board and two Federal Courts—there is no reason why a further review should be granted.

Respectfully submitted,

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